

BEFORE THE  
TENNESSEE STATE BOARD OF EQUALIZATION

In Re:

William J. & Bethany J. Whitson  
Map 116-02-0-B, Parcel 46CO  
Residential Property  
Tax year 2005

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Davidson County

INITIAL DECISION AND ORDER

Statement of the Case

The Metropolitan Board of Equalization (‘county board’) has valued the subject property for tax purposes as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$350,000	\$646,300	\$996,300	\$249,075

On September 23, 2005, the property owners filed an appeal with the State Board of Equalization (“State Board”). In attendance at the hearing were the appellant Joe Whitson and Davidson County Property Assessor’s representative Jason Poling.

The undersigned administrative judge conducted a hearing of this matter on May 18, 2006 in Nashville.

Findings of Fact and Conclusions of Law

The parcel in question is lot #51 in Hill Place, an upscale residential subdivision off Post Road in Nashville. Solely at issue in this appeal is the valuation of a 1.5-story dwelling that was erected on the 0.67-acre site in 1997. This brick house contains four bedrooms, four full baths, and a total living area of 5,047 square feet.

Mr. Whitson stated in an attachment to the appeal form that there has been little turnover in this relatively new development. In 2003, 4802 Post Road – a considerably larger house that sits on a 1.56-acre lot – did sell for \$1,100,000.<sup>1</sup> The crux of the taxpayer’s complaint, however, was that his house has been inequitably appraised in comparison with nearby homes of similar age, size, and construction. Of the properties listed in his exhibit, Mr. Whitson placed most emphasis on 5026 Hill Place. That home, which was also built in 1997 by the same contractor, is currently appraised at \$900,000 (including the \$350,000 land value).<sup>2</sup>

<sup>1</sup>For tax year 2005, 4802 Post Road has been appraised at \$1,263,600 (land value = \$369,600; improvement value = \$894,000).

<sup>2</sup>The parties disagreed as to the amount of *finished area* in 5026 Hill Place. On the “unofficial” property record card obtained by Mr. Whitson from a Web site, that area was shown as 4,964 square feet. But Mr. Poling maintained that the 4,330 figure appearing in the Assessor’s official records was correct. In view of the rationale for his decision in the case, the administrative judge finds it unnecessary to resolve this dispute.

In support of the value attributed to the subject improvement, the Assessor's representative analyzed the aforementioned sale of 4802 Post Road and two other sales of homes in the vicinity that occurred in 2003. From the adjusted comparable sale prices, he deducted the present land values and allocated the remaining amounts to the respective buildings. The mean adjusted sale price per square foot of "weighted" area for the comparables selected by Mr. Poling was \$131.21.<sup>3</sup>

Tenn. Code Ann. section 67-5-601(a) provides (in relevant part) that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values...."

Since the appellant seeks to change the present valuation of the subject property, he has the burden of proof in this administrative proceeding. State Board 0600-1-11(1).

In the opinion of the administrative judge, based on the evidence of record, the decision of the county board must be affirmed. Historically, the State Board has adhered to a *market value* standard in the review of property assessments. See Appeals of Laurel Hills Apartments, et al. (Davidson County, Tax Years 1981 and 1982, Final Decision and Order, April 10, 1984). Under this theory, an owner of property is entitled to "equalization" of its demonstrated market value by a ratio which reflects the *overall* level of appraisal in the jurisdiction for the tax year in controversy.<sup>4</sup> But this agency has repeatedly refused to accept the **appraised** values of purportedly comparable properties as sufficient proof of the **market** value of a property under appeal. In the Appeal of Stella L. Swope (Davidson County, Tax Years 1993 and 1994, Final Decision and Order, December 7, 1995), the Commission reasoned as follows:

The assessor's recorded values for other properties may suffer from errors just as Ms. Swope has alleged for her assessment, and therefore the recorded values cannot be assumed to prove market value.

*Id.* at p. 2.

It may be, as Mr. Whitson earnestly contended, that his house is not worth more than the contemporaneously-built 5026 Hill Place. But even accepting the validity of this premise, the administrative judge can no more confidently infer from the existing record that the subject property has been overvalued than that 5026 Hill Place has been *undervalued*. It is axiomatic among real estate appraisers that "[s]ale price per square foot usually decreases as square feet increase." International Association of Assessing Officers, Property Appraisal and Assessment

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<sup>3</sup>As explained by the Assessor's representative at the hearing, *weighted area* is a measurement by which significantly different improvements may be meaningfully compared. Essentially, the square footage of each component of the building (e.g., basement; attic; garage) is "weighted" according to a percentage of the adjusted base rate corresponding to the estimated construction cost. The Assessor's office has calculated the weighted area of the subject house as 5,422 square foot.

<sup>4</sup>See Tenn. Code Ann. sections 67-5-1604—1606. Usually, in a year of reappraisal – whose very purpose is to appraise all properties in the taxing jurisdiction at their fair market values – the appraisal ratio is 1.0000 (100%). That is the situation here.

Administration (1990), p. 162. In light of this general principle, it is reasonable to assume the subject house would bring a higher price per square foot than 4802 Post Road – the lone Hill Place sale cited by the appellant.

Order

It is, therefore, ORDERED that the following values be adopted for tax year 2005:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$350,000	\$646,300	\$996,300	\$249,075

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal “**must be filed within thirty (30) days from the date the initial decision is sent.**” Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal “**identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order**”; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 9<sup>th</sup> day of June, 2006.

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PETE LOESCH  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

cc: William J. & Bethany J. Whitson  
Jo Ann North, Davidson County Assessor of Property

